
**Report to
The Vermont Legislature**

**Strategies to
Improve Child Support Compliance and
Reduce Employer Administrative Burdens**

**In Accordance with H. 792
Challenges for Change Section C22**

Submitted to: House and Senate Committees on Appropriations and Judiciary

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Contents

Introduction	2
Executive Summary	4
Executive Summary, Continued	5
Reducing Employer Burdens.....	6
Employer Research and Data	6
Ensuring Compliance with Child Support Orders.....	10
Compliance Research and Data.....	12
Compliance Recommendations	16
Cost Benefit Considerations for Unable Non-Custodial Parents.....	17
Cost Benefit Considerations for Elusive Non-Custodial Parents	19
Appendix	21

Introduction

During the 2010 Legislative Session, the legislature passed *Challenges for Change* (H.792) to improve government efficiency and delivery of services. Section C22 requires the Vermont Office of Child Support to:

“(a) The office of child support shall:

(1) Reduce the administrative burden for employers who are required to withhold wages of an employee who is subject to a child support wage withholding order pursuant to subchapter 7 of chapter 11 of Title 15. The office shall review laws in other states to identify best practices in this area.

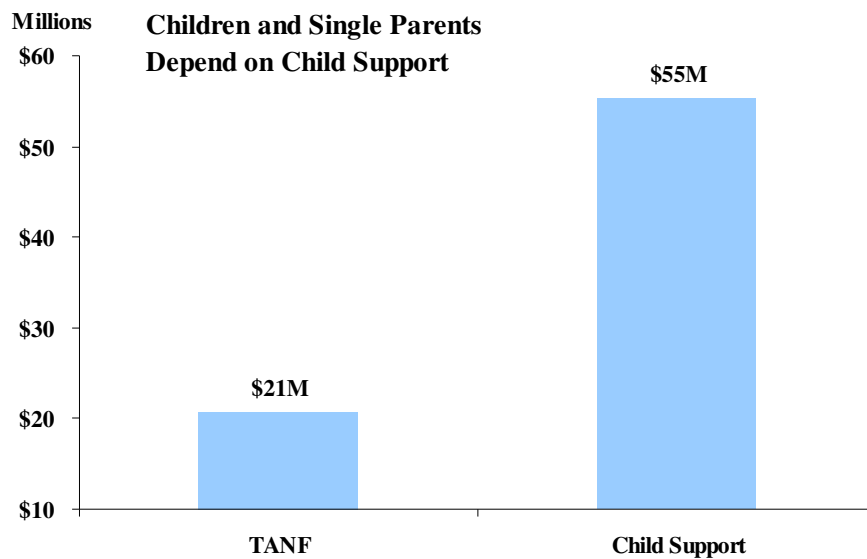
(2) Quantify the rate of compliance with child support orders, and categorize the noncompliant obligors in such a way as to enable a cost-benefit analysis of which enforcement strategies are most successful with the various categories of noncompliant obligors. Enforcement strategies shall be focused as much as practicable to collect from delinquent obligors without unnecessarily burdening obligees, compliant obligors, employers, and the courts.

(b) The office of child support shall report to the committees on judiciary and on appropriations no later than January 15, 2011, on its efforts to meet the challenges in subsection (a) of this section.”

The Vermont Office of Child Support respectfully submits this report on our efforts to meet these challenges.

Executive Summary

The Vermont Office of Child Support (OCS) works to improve the economic security of children by locating non-custodial parents, establishing parentage, establishing medical and child support obligations and ensuring obligations are met.



By collecting and disbursing child support payments, the program improves the financial condition of children while reducing costs incurred by Vermont taxpayers for public assistance, social services and health care. Although the majority of families who receive child support through OCS do not receive public assistance benefits, they typically consist

of one-parent households with very low income that depend on child support for a significant portion of their financial support.

OCS Child Support Numbers at a Glance

Metric	Measure	National Rank(*)
OCS Child Support Cases	21,500	
Total Child Support Collections	\$55.3M	
% of Cases with Child Support Orders	90%	6
% of Ongoing Child Support Paid vs. Due	68%	10
% of Cases with Payment toward Arrears	69%	11
% of Cases with a Collection	74%	
Annual Child Support Court Events	11,000	
Child Support Orders Recorded Annually	6,000	
Child Support Administrative Collections	\$665,000	

(*) Based on FFY'09 Data

Executive Summary, Continued

Reducing Employer Burdens

OCS partners with many entities in order to accomplish its mission. Vermont employers are some of the most important of these partners. Employers play a vital role in providing financial security for children who receive child support. Employers are statutorily responsible for withholding child support from the wages of their employees and forwarding the payments to OCS. The partnership between the OCS and employers financially benefits the State of Vermont by offsetting costs associated with public assistance, health care and social services.

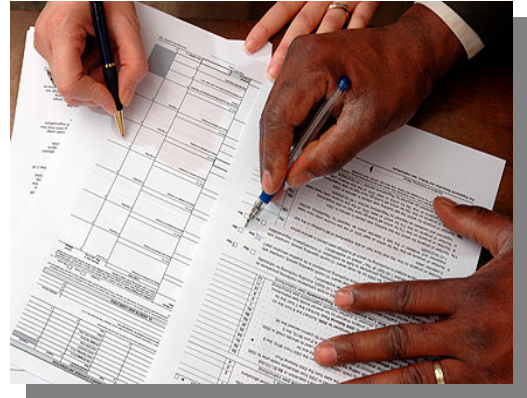
The research for this report demonstrates that, for the most part, employers are pleased with their relationship with OCS. Employers would, however, like to see innovations that would streamline their responsibilities, including conducting more child support business online and making payments electronically.

Ensuring Compliance with Child Support Orders

As a rule, the tools available to OCS to help ensure compliance with child support obligations work in most child support situations. This report recommends creative mechanisms to secure consistent and reliable child support payments from non-custodial parents who are currently unable to pay child support as well as more coercive strategies to ensure compliance by those who are elusive when it comes to supporting their children.

Reducing Employer Burdens

Wage withholding by employers is the single most effective means of collecting child support. OCS estimates that wage withholding is ordered in over 86% of all its cases with a current order to pay child support. OCS collected a total of \$55M in child support payments for SFY 10. Of that total, \$37.5M, or 68%, was collected by employers through wage withholding.



Employers play a critical role in the child support process, which is why OCS maintains an open line of communication with employers and seeks suggestions for improving services. Whether working with a small business owner, a payroll manager for a large corporation or a third party payroll company, OCS strives to limit the burden imposed on employers. However, withholding and promptly submitting payments so families can receive them timely may still be considered a burden by some employers.

***Wage Withholding
accounts for 68% of
child support payments.***

Once notified to withhold, employers must:

- Initially withhold within 10 business days or the next pay period, whichever is later
- Submit payment within 7 business days by Electronic Funds Transfer (EFT) or by mail

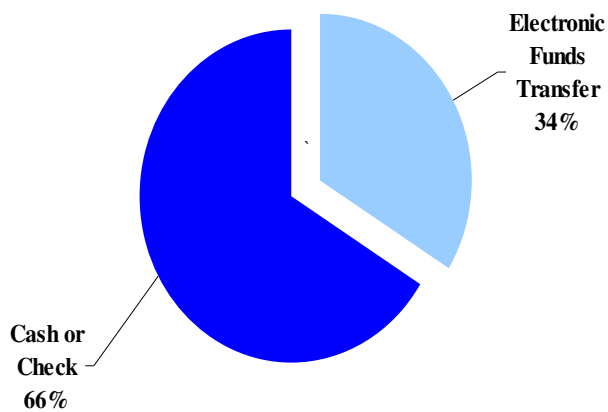
Section 1.01 Employer Research and Data

To identify the child support issues that are most important to Vermont employers, OCS delivered an online employer survey to over 450 employers. An overwhelming 103 employers responded. The survey questions that were asked are available at Attachment 1. OCS also convened a focus group.

Employer Survey Results:

- 66% of employers are withholding child support from 10 or fewer employees
- 63% of employers process withholding in-house rather than using payroll services
- 83% of employers utilize OCS coupons to identify their employees
- 38% of employers do not use the OCS supplied return envelope
- 55% of employers desire an online payment option
- 30% of employers were unaware OCS has an employer website and would use it for the online option
- 50% of employers desire operating through an employer website or portal
- 48% deal with child support agencies outside of Vermont

Only 34% of Employers Pay Electronically



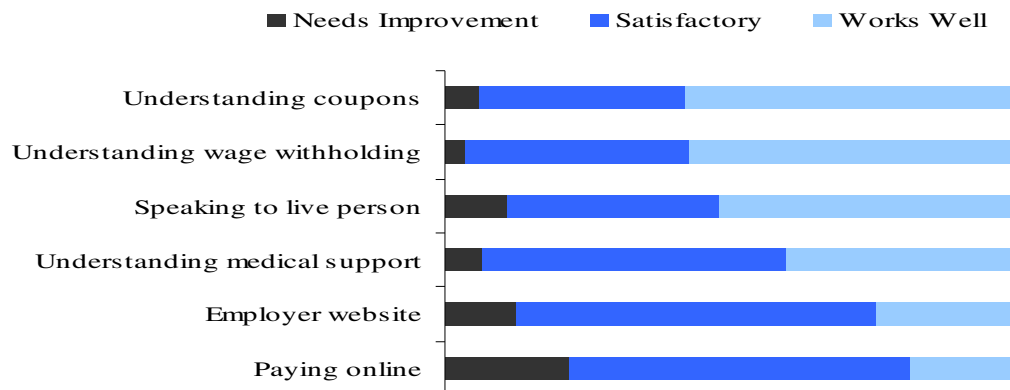
The majority of employers currently pay by check and include coupons with their payments instead of submitting payments electronically. This can be expensive and time consuming.

Employer feedback suggests that OCS practices are similar to those of many other states. OCS participates in conference calls with other states, employers and payroll agencies, providing insight into best practices for employers. Some states named as being easy for employers to work with are Iowa, North Dakota and Texas.

These same states have withholding statutes similar to Vermont, except Iowa and Texas, which allow for online payments. The OCS survey revealed that employers liked Iowa and Texas for their online payment service.

Overall, employers seem to be generally satisfied with the services they receive from the Vermont Office of Child Support. The comments also illustrated employer problems and preferences, as reflected in the chart and sample comments below.

OCS Overall Rating by Employers



Typical Employer comments reflect their issues and concerns:

- Vermont’s paperwork is clear and not redundant.
- “Vermont system seems to be simplified and easy to understand/follow.”
- About North Carolina, “Hate them we get multiple requests for info, duplicate copies of things, wastes tons of our time.”
- Employers prefer the online payment options available in at least 18 other states.
- Vermont provides superior customer service compared to other states.
- About New Hampshire, “Hard to get a hold of some offices on the phone and no web contact available.”
- About New York, “not employer friendly” and “phone contact operators cannot give you case specific information which is not helpful.”
- “VT OCS does a great job in follow up; your department is very good on responding to my e-mails and phone calls.”

Recommendations to Reduce Employer Burdens

Although employers are generally satisfied with OCS services, a number of steps would further improve the process for them.

	<i>Recommendation</i>	<i>Strategy</i>
1	Facilitate Electronic Payments	Offer electronic payments for employers
2	Update OCS Employer Website	Offer innovative and supportive services for employers online
3	Include OCS in Statewide Employer Portal	Utilize Business Registration Web Portal

1. Recommendation: Facilitate Electronic Payments

While, on average, only 34% of employer payments are submitted through EFT, it is evident from our research that employers would prefer to have alternate payment options. Offering online payment options would decrease the time delay between the withholding of wages by the employer, receipt of wages at OCS and delivery of the funds to Vermont families. Electronic payments would also decrease other administrative costs.

2. Recommendation: Update OCS Employer Website

Employers want a website to conduct their all child support business in one place, eliminating mailings and reducing their administrative burdens. OCS currently has an aged employer website that offers limited services but is not adequate for the needs of our employers. OCS has submitted an IT work request to upgrade the OCS employer website. A new website must:

- Improve the employer experience
- Improve security of data/information
- Increase collaboration/communication
- Create engaged relationships
- Provide exceptional customer service
- Redesign business processes to efficiently and effectively support employers

3. Recommendation: Include OCS in Statewide Employer Portal

OCS has been working with other agencies throughout the state to ease administrative burdens for employers. One such initiative is OCS' participation, along with the Secretary of State, Department of Labor (DOL), Department of Taxes and others, in the development of a Business Registration Web Portal that would provide one stop shopping for employers. The portal will allow employers to go to one place and obtain all of the information needed to start, operate and maintain a business in the State of Vermont. For example, an employer will be able to make payments for licensing fees and/or permits. Employers will be able to pay their quarterly taxes and register a business. This is an ideal portal for child support payments as well. Presently, the portal is being explored by several agencies, but OCS child support payments are not yet in the immediate purview of the Business Registration Web Portal. However, OCS will continue to work with our partners to advocate for inclusion in that project as soon as possible.

Ensuring Compliance with Child Support Orders

In Federal Fiscal Year 2010, families receiving OCS services were entitled to an annual total of approximately \$55,600,000 in current child support payments for minor children. In Vermont, non-custodial parents are generally responsible and typically meet their court ordered obligations. Almost 70% of child support is paid as ordered each month. Unfortunately this also means 30% goes unpaid each month. Although there are many reasons for noncompliance, for purposes of this report we have classified noncompliant non-custodial parents as either “unable” (those who are unable to pay their child support obligations due, primarily, to financial circumstances such as disability, unemployment or incarceration) or “elusive” (those who choose not to pay their child support obligations and are often self-employed, working under the table, residing out-of-state or intentionally evading authorities). Each of the two categories of noncompliant non-custodial parents is best served by a different set of responses.

Although Vermont ranks among the top states in the country in terms of child support performance, a significant amount of child support goes unpaid despite our use of a wide variety of administrative and court ordered enforcement remedies. The remedies currently available to OCS include: Treasury and Lottery Offsets, Court Enforcement Hearings, License Non-Renewal and Suspension, Contempt Actions, Criminal Non Support Actions, Wage Withholding, Trustee Process, Penalties, Liens and Passport denials.

Each month, about 30% of court-ordered child support goes unpaid adding to the almost \$100,000,000 in unpaid support already on the OCS books. This amount will significantly grow due to the surcharge that now accrues at the relatively high rate of 12% per year (simple interest).

Research indicates that non-custodial parents who have stable employment and residences pay 90% or more of their child support obligations. The table to the right illustrates the importance of stability in the likelihood of collecting child support.

For non-custodial parents who are able and willing to pay their child support, the existing compliance tools such as wage withholding and tax offsets work well. Willing parents work to meet the needs of their children while factoring in their own circumstances.

What are the odds of receiving child support ... and when will payments start?

		Whereabouts of Non-Custodial Parent			
		Known - In Vermont	Known - Out of State	Unknown- Moves Often	Unknown- No Idea
Income of Non-Custodial Parent	Salaried - Steady Employment	Very high likelihood of payment; 1st Payment within weeks			
	Some Income or Assets Known, Self Employed	Medium Likelihood of Payment; 1st Payment in Months			
	No Income or Assets Known, Self Employed	Low Likelihood of Payment; 1st Payment in Years or Never			
	Drug/Alcohol/ Unemployed/ Under the Table Income				
	No Idea				

Noncompliant Non-Custodial Parents—Unable and Elusive

This report focuses on two groups of non-custodial parents from whom collecting child support is most difficult; those who are unable and those who are elusive. Other states show that, for the unable population, proactive prevention measures are more effective than enforcement remedies. Examples of common barriers within the unable population include non-custodial parents who are incarcerated, on public assistance or unemployed. In cases where the non-custodial parent is unable to pay child support, many states have taken steps to break down the barriers to employment and compliance by offering outreach services.

However, there are many circumstances in which enforcement is appropriate and necessary. The elusive population has the ability to pay but simply refuses to pay child support.

OCS has a number of compliance tools available when families are not receiving their child support regularly, but one size does not fit all when it comes to child support enforcement. The research and data suggest that existing enforcement remedies are ineffective for those non-custodial parents who are unable or elusive. Below are some specific characteristics of these two groups:

One Elusive Non-Custodial Parent:

“It is (or at least should be) “criminal” that Defendant [X] has been able, in only 8 years, to continually avoid his child support obligations and rack up over \$24,000 (including hefty surcharges) in unpaid child support arrears. The statutory threats otherwise available, such as loss or suspension of his driver’s license, have no meaning for, and no effect on child support obligors like Defendant [X]; he is even now facing criminal DLS charges from 2 separate occasions of having been caught driving with no valid operator’s license. So long as he is able to find new accomplices, e.g., new paramours who are willing to provide him financial assistance or other basic support such as housing; and so long as there are parts of our society who are willing to deal with him “under the table” and provide untraceable cash payments for work or other services, any effort to prove he does have the requisite, and actual “ability to pay” his child support obligations is almost surely guaranteed to be an exercise in futility.”

-From a 2010 Family Court Order

Unable – Not able to pay any or all child support.

Incarcerated	The non-custodial parent is incarcerated.
Public Assistance	The non-custodial parent is receiving public assistance benefits.
Nominal Support Order Cases	Cases in which a very low, or nominal, Child Support Order is issued. The circumstances for the non-custodial parent may point to poor payment likelihood but the court may feel a nominal amount support should be ordered.
Chronic Unemployment	The non-custodial parent is unable to find lasting employment that allows him or her to adequately support his family. This may be due to other factors, such as a lack of education and training or physical disabilities.

Elusive – Not willing to pay child support.

Self-Employed	The non-custodial parent is self-employed according to OCS records.
Non-custodial Parent working “under the table”	The non-custodial parent is working for cash and neither their wages nor their employment is being reported to the state, therefore OCS cannot withhold child support from their wages.
Non-Custodial Parent Location is Unknown	The location of the non-custodial parent is not known to OCS. These non-custodial parents often avoid the authorities by staying underground.
Custodial Parent Not in Vermont	Vermont OCS has received a request from an out of state child support agency to pursue child support from a non-custodial parent living in the State of Vermont.
Non-custodial Parent not in Vermont	Vermont OCS has requested that an out of state child support agency pursue child support from a non-custodial parent living in the other state.

Section 1.02 Compliance Research and Data

As discussed above, OCS collects just under 70% of the amount due in current child support to Vermont families receiving OCS services. This means that, roughly speaking, for every two dollars collected as current support, one dollar goes uncollected at the time it is due.

\$72.3M in arrears are owed on cases where there is an ongoing obligation to pay current child support. Our research focuses on this population of cases.

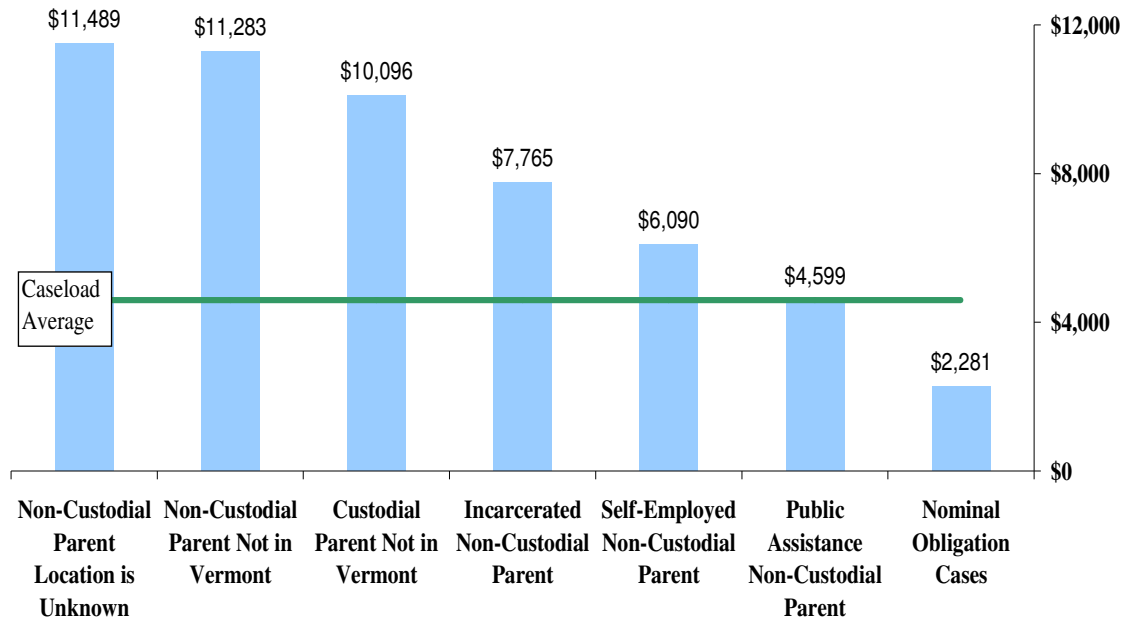
40% of OCS cases make up 60% of OCS arrears

OCS utilized caseload data to identify trends or characteristics of cases indicative of poor payment (no to low payments) in its current child support caseload. For the analysis, OCS cases were grouped into two case categories, those receiving 90% or above of current support due (“Compliant”) and those receiving below 90% of current support due (“Noncompliant”).

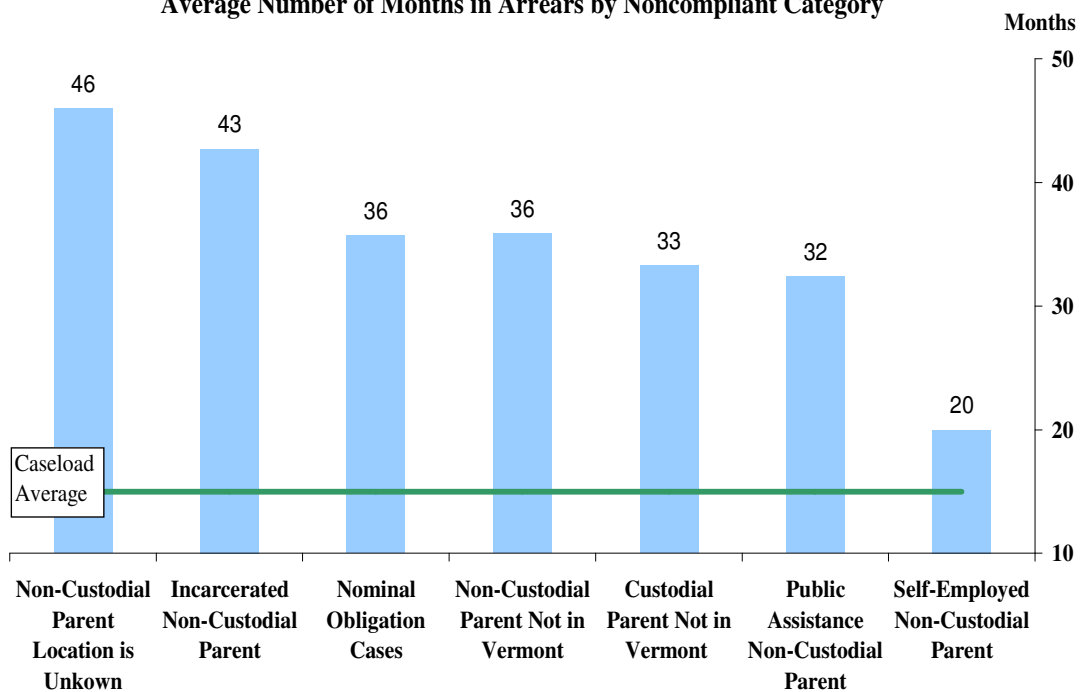
The average obligated current child support case in the OCS caseload has a monthly obligation of \$314 and outstanding arrears due of \$4,616, which represents approximately 15 months of missed support payments. The charts on the next page illustrate how noncompliant cases compare to the rest of the child support cases in our caseload. Noncompliant cases have almost *double* or *triple* the amount of arrears as well as the number of missed months of payments.

Combined, the noncompliant cases have arrears due totaling approximately \$43.2M, which is approximately 60% of the total outstanding arrears due of \$72.6M for ongoing current child support cases. Yet they only make up approximately 40% of the current support caseload. This represents a small segment with a large impact.

Average Arrears Per Case by Noncompliant Category



Average Number of Months in Arrears by Noncompliant Category



Characteristics of Noncompliant Cases

Incarcerated Non-Custodial Parents

Very few non-custodial parents have the resources to be able to meet their child support obligations while they are in prison and unable to work. Some incarcerated non-custodial parents petition the court to modify their obligation as a result of their incarceration. When modifications are requested by incarcerated non-custodial parents, the results are mixed. While some magistrates do grant these modification requests and issue orders for nominal or \$0 support, many magistrates refuse to grant the modification requests. In denying non-custodial parents' requests to modify child support, the courts usually base their decision on the fact that the non-custodial parent is in prison as a foreseeable result of their own voluntary actions and, therefore, there is no unanticipated change of circumstances that warrants a modification.

When a non-custodial parent with a child support obligation is imprisoned for any length of time, they are unlikely to make child support payments and arrears are, therefore, likely to accrue on their case. OCS currently has 491 open cases in which a non-custodial parent is obligated to pay child support, with average arrears of \$7,775 per case and total arrears of \$3.8M.

***491 incarcerated
parents owe
\$3.8M in child
support arrears***

Public Assistance Non-Custodial Parents

Public assistance recipients are another category of noncompliant non-custodial parents who are unable to meet their obligations. Non-custodial parents who receive public assistance may be ordered to contribute at least a token amount for their children in other households. Non-custodial parents receiving public assistance who have current child support cases are ordered to pay an average of \$145 per month in child support and have a total of \$1.6M in arrears.

Nominal Obligation Cases and Chronic Unemployment

For this analysis, a nominal obligation is defined as a monthly current child support obligation between \$1 and \$100. A nominal obligation is usually issued by the court when a non-custodial parent's monthly income is near or below the self-support support reserve, which is currently \$875. Non-custodial parents fall into this category for many different reasons, and many are chronically unemployed. Some are disabled, are not able to work and may receive general assistance or social security disability benefits. Some have very limited education and job skills which prevents them from obtaining a good paying job. Some are unemployed, unable to find new

***Current cases
with obligations
under \$100
make up \$4.9M
of OCS arrears***

employment and have exhausted their unemployment benefits. For others, this could be their 2nd, 3rd, 4th or even 5th child support case and their income is not sufficient to support that many cases. Currently, OCS has 2,132 nominal obligation cases on its books and despite the low obligations, they have arrears totaling \$4.9M.

Non-Custodial Parents who are Self-Employed or Working “Under the Table”

Approximately 70% of support collected is through wage withholding from a non-custodial parent’s employer and the majority of cases involve a non-custodial parent working for an employer. Nonetheless, there is a group of non-custodial parents who categorize themselves as self-employed who either operate their own business or work for another business as a sub-contractor. Others work for cash in an effort to avoid having their income reported to the state. In these situations, wage withholding is ineffective and child support can only be collected if the non-custodial parent chooses to submit child support payments to OCS. There are almost 1,000 non-custodial parents in Vermont who owe current child support and report to OCS that they are self-employed. They owe almost \$6M in arrears.

Non-Custodial Parent’s Location Unknown

Most non-custodial parents in the OCS caseload have a stable residence in Vermont, but there is a smaller group of non-custodial parents who frequently relocate, often outside of Vermont. Some non-custodial parents do this deliberately to avoid their support obligation. Non-custodial parents are required by the terms of their child support order to notify OCS of changes of employment and address within seven days. Some do, many do not. In a majority of the cases, OCS quickly finds the new address or employer. Others are difficult to find and remain in locate status for many months and sometimes years. OCS is currently unable to locate non-custodial parents in 382 cases where that non-custodial parent owes current child support. The average amount of arrears on those cases is over \$11,000 and they total \$4.4M.

***Non-custodial
parents whose
location is
unknown owe an
average of over
\$11,000***

Custodial Parent Not in Vermont

In these cases, the non-custodial parent resides in Vermont and the custodial parent resides in another state, which asks OCS to establish and/or enforce the child support obligation. In many cases, the underlying child support order did not originate in the state that is seeking OCS’ assistance which means a third (and sometimes a fourth or fifth) state’s child support agency is involved in the case. In many cases, the non-custodial parent has moved from one state to another to avoid paying child support and arrives in Vermont owing substantial arrears. As a result, interstate cases are complicated and time consuming to handle. 837 of OCS’ current cases fall into this category and they represent \$8.5M in arrears.

Non-Custodial Parent Not in Vermont

Here, the custodial parent resides in Vermont and the non-custodial parent resides in another state. OCS often must ask the state where the non-custodial parent resides to establish and/or enforce the child support obligation. The same complexities that exist in cases where the custodial parent does not reside in Vermont also exist in these cases, and they are at least as time consuming to handle, if not more so. They are complicated by the fact that the state from which OCS has requested assistance has complete control over how they handle the case. They may or may not treat the case the same way Vermont would and the results can vary widely depending on which state the non-custodial parent is living in. OCS is currently working over 1200 such cases, and they account for over \$14M in arrears.

Compliance Recommendations

A. Unable Non-Custodial Parents:

	<i>Recommendation</i>	<i>Strategy</i>
1	Establish and Maintain Appropriate Obligations and Surcharge	Determine whether mandatory nominal orders are appropriate in cases where non-custodial parent is unable to pay Consider legislation to eliminate or reduce surcharge accrual rate
2	Provide Training and Work-Search Program for Unemployed Non-Custodial Parents	Training programs targeting non-custodial parents

1. Recommendation: Establish Appropriate Obligations and Surcharge

Non-custodial parents with very limited income may be accruing large arrears based on obligations they are truly unable to pay. Currently, Vermont's law regarding the computation of parental support obligations states that if a "non-custodial parent's available income...is less than the self-support reserve" the court "shall require payment of a nominal support amount." 15 V.S.A. § 656(b). For the vast majority of cases, the courts interpret this language to require a child support obligation even if the non-custodial parent does not have the financial resources to pay it. OCS intends to continue to investigate the ramifications of these mandatory nominal orders and look into whether the statutory mandate needs to be revisited.

The arrears owed by non-custodial parents who lack the means to pay their monthly support obligation may be about to get worse. In 2004, 15 V.S.A. § 606 was modified so that all outstanding child support arrears accrue a surcharge at the rate of 1% per month. Prior to this, the courts very rarely assessed interest in child support cases. Recently, OCS upgraded its computer system to automatically compute and assess surcharge on a monthly basis. OCS began implementing the new programming in October 2010. It is anticipated it will take up to two years for all cases to be reviewed and fully implemented.

Since 2004, approximately \$7.4M has been added as surcharge and is included in total outstanding arrears owed to custodial parents. Once fully implemented, it is anticipated that just under \$1M in surcharge will be added to cases on an annual basis. Potentially, up to \$5M or more will be added to cases in the next two years when they are reviewed and surcharge is computed and assessed for the time period of July 2004 until implementation. The additional strain for those already unable to meet child support obligations is likely to become insurmountable.

Recommendations:

- OCS will further examine the practicality of nominal obligations for low-income parents.
- Consider legislation that would reduce the rate of accrual of surcharge on outstanding child support arrears.

2. Recommendation: Provide Training and Assistance to Unemployed Non-Custodial parents

OCS is most successful at collecting child support when non-custodial parents are employed and their child support can be collected through wage withholding. When a non-custodial parent is unemployed or only sporadically employed, it affects not only their ability to financially support their children, but the likelihood they will directly pay whatever amount they *can* afford to OCS or the custodial parent. Assisting non-custodial parents in attaining full-time employment would benefit OCS and the families for whom we collect child support.

OCS would be interested in partnering with the Department of Labor and community agencies to help find employment for child support non-custodial parents. Vermont family courts are currently authorized by 15 V.S.A. § 658(d) to order a parent who fails to meet their child support obligation to participate in “employment, educational, or training related activities,” but no formal programs exist at this time. By creating a program to which non-custodial parents could be referred, OCS could increase the use of this provision by the courts and, consequently, the number of employed parents able to meet their child support obligations.

Recommendation:

- Create an inter-agency workgroup comprised of Vermont DOL and OCS staff charged with creating new funded work search, educational and training programs for non-custodial parents. Fund job fairs targeting unemployed or under-employed non-custodial parents. This would require additional financial resources.

Section 1.03 Cost Benefit Considerations for Unable Non-Custodial Parents

From our research data and observations it appears that the non-custodial parents in the unable category face many of the same obstacles and share many of the same characteristics of long-term welfare recipients. Non-custodial parents with prison records face additional hurdles. As a result, addressing these problems is relatively labor intensive and expensive, typically requiring support services and case management. Even with services, child support contributions from this group are likely to be minimal. Perhaps the most cost effective approach would be court-ordered referrals to preexisting programs.

B. Elusive Non-Custodial Parents:

	<i>Recommendation</i>	<i>Strategy</i>
<i>1</i>	Court Ordered Job Searches and Training for Unemployed Non-Custodial Parents	Mandatory training programs targeting non-custodial parents
<i>2</i>	Enhanced Child Support Contempt Procedures	Amend legislation to clarify the elements, affirmative defenses and process for contempt of court for failing to pay child support OCS probation authority Electronic house arrest
<i>3</i>	Expand Administrative Remedy	Vehicle registration denial

1. Recommendation: Mandatory Work Related Activities

Job training and work search activities could help OCS gain compliance from both categories of noncompliant non-custodial parents. In the case of elusive non-custodial parents who are refusing to pay child support, it needs to be a mandatory process, imposed by court order and monitored to ensure the non-custodial parent's cooperation. We need to identify and/or create programs to which non-custodial parents can be referred for mandatory job searches, job training and further education. This will allow greater use of 15 V.S.A. § 658(d) by the courts and will force voluntarily unemployed non-custodial parents to seek work, and may help identify those non-custodial parents who are, in fact, working but who are concealing their income from the courts and other state agencies.

Recommendation:

- Provide funding for job-related activities that courts may order elusive non-custodial parents to attend.

2. Recommendation: Strengthen Child Support Contempt Statutes

For our most elusive group, the civil contempt process and the possibility of incarceration is the remedy of last resort for OCS. The problem for OCS is that the Vermont Supreme Court has recently interpreted the current statute to require a non-custodial parent have the financial ability to purge contempt (i.e. pay a certain sum of money) at the exact time of hearing, or incarceration may not be imposed by the court, no matter how egregious the conduct of the non-custodial parent. Many courts are refusing to incarcerate anyone for nonpayment of child support because the courts are finding most non-custodial parent do not have the immediate ability to pay even the most modest sums of money. As a result, courts are unwilling to provide any real sanction unless OCS can conclusively prove the non-custodial parent has actual finances at his/her fingertips even if there is an intentional dissipation of assets just days before the hearing. This growing judicial practice undermines parental responsibility and accountability.

Many states have contempt statutes tailored more closely to the issues confronted in child support cases. Additionally, many states, such as North Carolina, Texas, Oregon and Tennessee routinely use a combined coercive/punitive approach when utilizing the contempt remedy. This allows the court more flexibility to structure sanctions based on the non-custodial parent's ability to pay. For example, if the non-custodial parent has the ability to pay on the date of hearing, the court would likely order the non-custodial parent purge the contempt by paying a sum of money or face incarceration. On the other hand, if the non-custodial parent lacks the ability to pay on the day of hearing but there is evidence the non-custodial parent had the ability to pay in the past; the court has much more leverage to induce compliance under a punitive framework. In several jurisdictions, courts defer sentencing and set certain conditions and once those conditions are met, the contempt is dismissed.

In order to secure compliance from noncompliant non-custodial parents who fall into the elusive category, OCS has to be able to impose real, adverse consequences for parents who choose not to obey the court's orders to pay child support.

Recommendations:

- Introduce legislation that would clarify when a non-custodial parent can be incarcerated for failing to pay child support and define the affirmative defenses available to non-custodial parents.
- Create a combined coercive/punitive system that provides the same safeguards for the accused, but results in no criminal record. Under this system, a case can be converted to a criminal contempt with conditions placed on the non-custodial parent to improve his or her financial situation and ability to pay. Several states have created problem-solving courts and use the criminal remedy as an opportunity to order conditions to improve a non-custodial parent's financial situation and ability to pay.
- Allow noncompliant non-custodial parents to be placed on probation and grant OCS probation authority to monitor compliance with specific conditions. In New Hampshire, the state child support agency is granted probation duties that allow the agency to monitor compliance. This would require one full-time position in addition to current OCS staffing.
- Provide courts with the option of ordering the non-custodial parent to be placed on Electronic House Arrest, with enabling legislation and funding. In order for OCS to be able to monitor compliance, this would require funding for equipment and staffing.

3. Recommendation: Expand Administrative Remedies—Vehicle Registration Denial

The research suggests that existing enforcement remedies are ineffective for non-custodial parents in the elusive group who conceal assets and income or work “under-the-table.” One statutory remedy OCS frequently utilizes for this population is the suspension of recreational, professional and driver’s licenses. However, in some cases, suspension of a license is simply not enough; many non-custodial parents will continue to drive even after their license has been suspended.

Many states have found that, in addition to suspending licenses, denying the renewal of vehicle registrations can be very effective. Texas, North Dakota, Massachusetts, Georgia, Florida, Iowa, Illinois and Wyoming have vehicle registration denial or related laws. This strategy prohibits renewal of vehicle registration (automobiles, boat, snowmobiles, ATVs, etc.) for those individuals who are not in compliance with their child support orders. Recalcitrant individuals who choose to drive an unregistered vehicle are at greater risk of being stopped for a traffic violation than those who simply drive without a license.

- Enact legislation that will deny noncompliant non-custodial parents the opportunity to register their vehicles or renew existing vehicle registrations. This would require an investment in automation support.

Section 1.04 Cost Benefit Considerations for Elusive Non-Custodial Parents

From our research data and observations, it appears that achieving compliance for the non-custodial parents in the elusive category will also be relatively expensive since non-custodial parents in this group typically do not have income or assets that can be readily identified and withheld through automated means as is the case with wage earners. Compounding the problem is the fact that many may be unable as well as elusive.

For this group, vehicle registration denial will be relatively inexpensive since it is a process that can be automated. For cases where only the threat of deprivation of liberty will induce compliance, approaches such as electronic house arrest or supervised work search will be less costly than incarceration. Mandatory supervised work or educational requirements have the added benefits of potentially immediately generating child support from wages and/or better preparing non-custodial parents for the workplace. Again, making use of preexisting programs wherever possible would be the least expensive strategy.

Appendix

Employer Survey

As you may know, state and federal laws and most child support orders now require child support to be withheld from wages to ensure timely payment of child support. Employers of course are critical to this effort.

The purpose of this survey is to identify how the Vermont Office of Child Support (OCS) can improve the wage withholding process and to the extent possible, reduce the administrative effort for employers. Your participation in this short survey is greatly appreciated.

Thanks for your help!

1. Please provide some information about you.

2. Payroll contact and email (if different from above):

3. Health insurance contact and email (if different from above):

4. How many employees do you currently withhold child support for?

☐

0

☐

1-10

☐

10-20

☐

20+

5. How do you process child support payroll withholding?

☐

In house

☐

Outsourced payroll company

☐

Bookkeeper

6. Do you receive payment coupons from OCS to process wage withholding?

☐

Yes

☐

No

7. Are the coupon instructions understandable to you?

- ☐ Yes
- ☐ No

8. Do you use the self-addressed envelopes included with the coupons to return information?

- ☐ Yes
- ☐ No

9. Would you prefer to pay online than by mail?

- ☐ Yes
- ☐ No
- ☐ I pay EFT

10. Do you use the OCS employer website?

- ☐ Yes
- ☐ No

11. Have you been an OCS employer website user and decided to return to paper?

- ☐ Yes
- ☐ No

12. Do you have dealings with child support offices outside of Vermont?

- ☐ Yes
- ☐ No

13. If you answered yes to dealing with child support offices outside of Vermont, which states and what do you like or dislike about each one?

14. Would you be interested in participating on an employer workgroup that focuses on reducing the administrative process for employers dealing with child support?

- ☐ Yes
- ☐ No

15. Please rate OCS' need for improvement to you for each category:

	Needs Improvement		Satisfactory		Works Well
Understanding wage withholding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understanding use of payment coupons	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understanding medical support	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Speaking to live person	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Paying online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Operating through an employer website	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other:

16. What is most important to you? Please select the top 3:

- ☐ Understanding use of payment coupons
- ☐ Understanding wage withholding
- ☐ Understanding medical support
- ☐ Speaking to live person
- ☐ Operating through an employer website
- ☐ Paying online

Other:

17. Any other comments or suggestions regarding child support withholding?

Thank you for taking the time to complete this survey!

Acknowledgments, thanks to the Office of Child Support Staff who contributed to this report:

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